

FIRST REGULAR SESSION

HOUSE BILL NO. 68

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE LIESE.

Pre-filed December 1, 2000, and 1000 copies ordered printed.

ANNE C. WALKER, Chief Clerk

0612L.011

AN ACT

To amend chapter 565, RSMo, relating to offenses against the person by adding thereto one new section relating to the commission on the death penalty.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 565, RSMo, is amended by adding thereto one new section, to be
2 known as section 565.042, to read as follows:

**565.042. 1. A commission on the death penalty is hereby created, to consist of nine
2 members: one member from each political party in the house of representatives, to be
3 appointed by the speaker of the house; one member from each political party in the senate,
4 to be appointed by the president pro tem; one member to be appointed by the state public
5 defender or designee thereof; one member appointed by the attorney general or a designee
6 thereof; and three citizens of the state to be appointed members by the governor. The
7 members of the commission shall serve without compensation, but the members shall be
8 reimbursed for necessary expenses incurred in the work of the commission, such as travel,
9 food, and lodging. The commission shall be appointed and staffed on or before December
10 1, 2001.**

**11 2. An executive director of the commission on the death penalty shall be appointed
12 by the commission to administer projects and programs for the operation of the
13 commission and shall transmit monthly to the commission a report of the operations of the
14 commission for the preceding month.**

**15 3. The commission on the death penalty shall hold public hearings and call before
16 it witnesses to testify on issues relevant to the administration of the death penalty in
17 Missouri. The commission may create an Internet web site and other means to
18 communicate with the public and invite citizen input.**

19 **4. The commission on the death penalty shall be given access to all information**
20 **relating to death penalty cases and first and second degree murder cases maintained by the**
21 **Missouri supreme court, inferior state courts, county and state prosecutor offices, and the**
22 **state public defender system. The commission may contract with universities for research**
23 **assistance in collecting and analyzing information on all aspects of the death penalty as**
24 **administered in Missouri.**

25 **5. The commission shall study all aspects of the death penalty as administered in**
26 **Missouri. As part of this study, the commission on the death penalty shall review and**
27 **analyze all cases in which charges of second degree murder or first degree murder**
28 **committed on or after January 1, 1977, were filed. Such review and analysis shall examine**
29 **all available data concerning:**

- 30 **(1) The facts of the offense including mitigating and aggravating circumstances;**
31 **(2) The county in which the charges were filed;**
32 **(3) The charges originally filed;**
33 **(4) The crime for which the defendant was convicted or entered a plea of guilty;**
34 **(5) The sentence imposed;**
35 **(6) The age, race, gender, religious preference and economic status of the defendant**
36 **and of the victim;**
37 **(7) Whether evidence exists that the defendant was mentally retarded;**
38 **(8) The cost per disposition and implementation of sentence;**
39 **(9) The identity, number and experience level of defense counsel at trial, appeal,**
40 **and post-conviction;**
41 **(10) The identity, number and experience level of trial and appellate prosecutors,**
42 **including, where appropriate, members of the staff of the attorney general;**
43 **(11) The results of any post-conviction review in state or federal court.**

44 **6. In considering the experience level of attorneys and the adequacy of resources**
45 **as described in subdivisions (9) and (10) of subsection 5 of this section, the commission**
46 **shall consider the experience and training levels required by the Missouri supreme court,**
47 **the experience and training levels required by the courts and legislators of other**
48 **jurisdictions in which the death penalty is imposed and the recommendations of national**
49 **associations.**

50 **7. The review conducted by the commission shall include new criminal homicide**
51 **charges filed during the state period.**

52 **8. The commission shall report its findings and recommendations regarding the**
53 **death penalty, including remedies for any deficiencies found by the commission, to the**
54 **governor, members of the legislature, and the Missouri supreme court by January 1, 2004.**

55 **9. The commission shall make recommendations for amendments to the statutes**
56 **and court rules pertaining to cases in which the death penalty is sought or imposed to**
57 **provide assurances that:**

58 **(1) Defendants who are sentenced to death are in fact guilty of first degree murder;**

59 **(2) Defendants in cases in which the death penalty is sought are provided adequate**
60 **and experienced counsel and adequate resources for the defense of their cases at trial;**

61 **(3) Defendants in cases in which the death penalty is imposed are provided**
62 **adequate and experienced counsel and adequate resources for the defense of their cases at**
63 **the appellate and post-conviction stages;**

64 **(4) Race does not play an impermissible role in determining which defendants are**
65 **sentenced to death;**

66 **(5) Appellate and post-conviction procedures are adequate to provide a fair**
67 **opportunity for the courts of this state to correct errors and injustices that occurred at trial**
68 **in cases in which the death penalty is imposed, including but not limited to, allowing access**
69 **to physical evidence for later testing and analysis; and**

70 **(6) All prosecutors throughout this state use similar criteria to determine whether**
71 **to seek the death penalty in a case involving criminal homicide.**

72 **10. No execution of a defendant shall take place between the effective date of this**
73 **section and January 1, 2004.**

74 **11. During the moratorium period, the special procedures in cases of first degree**
75 **murder provided in section 565.030 to 565.040 and any other proceedings related to capital**
76 **cases, including motions for post-conviction relief, shall continue to be operative and shall**
77 **proceed as if no such moratorium were in place, except that no day certain for execution**
78 **shall be appointed that falls during the moratorium.**